

ONEIDA COUNTY – Circuit Court Rules

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RULE 1: FILE REMOVAL AND REVIEW

Effective date: July 19, 2011, originally promulgated in different format on January 7, 2011; reviewed January 15, 2013

No one except authorized personnel shall be in the areas where official court files are kept. No files are to be removed from the Clerk of Court's office unless authorized by the Circuit Judge.

Access to court files is limited to the Clerk of Court's office only. The clerk shall provide at a reasonable fee, copies of any portion of the file upon request, with the exception of sealed documents. All sealed documents in any court file shall not be released with the file unless the court specifically orders. All sealed documents shall be removed from the file, prior to review, as provided herein without such special authorization.

RULE 2: FACSIMILE/E-MAIL TRANSMISSION

Effective date: July 19, 2011, originally promulgated in different format on July 1, 2011; reviewed January 15, 2013

Filing of papers by facsimile or e-mail transmission will not be accepted by the Clerk of Circuit Court.

Fax transmissions to the judiciary shall be by express permission only and directed to the particular judicial official's fax number. The Clerk of Circuit Court will not accept faxes directed to the judiciary.

Any deviation from this rule will only be permitted upon receipt of express consent of the judge and only upon good cause shown.

RULE 3: JURY FEES

Effective date: July 19, 2011 (referencing Ninth Judicial District Rule #1, revised 6/1/10); reviewed January 15, 2013

When a civil or criminal case scheduled for jury trial settles within two business days of the start of trial, the court shall impose actual costs in his/her discretion, in accordance with Wis. Stats. section 814.51.

Specifically for criminal, traffic or ordinance trials by jury, it is the responsibility of the defense attorney to notify the Clerk of Court's Office at 715-369-6120 at least 48 hours in advance if the trial settles to avoid the imposition of actual jury costs.

RULE 4: FORECLOSURE MEDIATION PROGRAM

Effective date: October 1, 2011; reviewed January 15, 2013

Alternative Dispute Resolution:

- A. Unless otherwise directed by the court, ADR will be used pursuant to section 802.12 Wis. Stats. (*Alternative Dispute Resolution*) in all areas where appropriate.
- B. In foreclosure actions, the Court shall require the plaintiff to inform the defendant in writing, using the forms adopted by the court, at the time of service, that ADR procedures (Sec. 802.12 Wis. Stats.) may be requested by either party. This rule shall apply only to homestead property that is owner occupied.

RULE 5: WHEN RECORD IS SILENT; CLERK'S AUTHORITY

Effective date: March 1, 2013

In those cases where the record is silent, any of the following that are statutorily mandated for the offense for which the defendant has been convicted, the clerk of court shall have the authority to do the following:

- Revoke or suspend driving privileges including, if there is a range of time, the minimum revocation or suspension;
- Assess any domestic abuse surcharge, if the judge has made the necessary finding;
- Assess any DNA surcharge or sample; if the judge has made the necessary findings on record; and,
- Assess all other mandatory costs, fees, assessments, or surcharges, or require an alcohol assessment

Upon exercising such authority, the clerk shall make an appropriate notation on the minute sheet and initial the same.

RULE 6: SMALL CLAIMS PROCEDURES

Effective date: March 1, 2013

SERVICE IN SMALL CLAIMS

- (1) **Service by Mail Authorized:** Except in eviction, replevin or contempt proceedings, service of any small claims pleadings may be made by first class or certified mail, return receipt requested if the party lives in Oneida County.
- (2) **Personal Service:** All small claims pleadings must be personally served on parties residing outside of Oneida County. All eviction and contempt proceedings require personal service. Proof of service shall be filed with the Clerk of Court's Office prior to or at the return date or contempt hearing date.
- (3) **Refused Mail:** Shall constitute a presumption of service upon the defendant since it indicates that he/she was presented with the envelope but refused to accept it under circumstances indicating that he/she had reason to know that it involved legal proceedings against him/her.

- (4) **Unclaimed Mail:** Shall not constitute service since there is no presumption that the defendant has reason to know that legal proceedings involving him/her have been commenced. In such cases, the Clerk shall advise the plaintiff of the failure of service and direct plaintiff to obtain personal service or service by publication within 30 days of the date of notice or have the action dismissed for failure of service.

APPEARANCES BY PARTIES

Plaintiff Appearance

- (1) Plaintiff does not need to appear at the initial return date as set forth on the summons; see (2) for exception;
- (2) Plaintiff must appear in person in the following instances:
- Eviction action – initial return date
 - Mediation/settlement conference unless other arrangements are made with the Court
 - Court trial
 - Contempt proceedings

Defendant Appearance

- (1) Defendant may answer the summons and complaint either by filing a written answer before the initial return date with the Clerk, or by appearing in person.
- (2) Defendant must appear in person in the following instances:
- Eviction action – initial return date
 - Mediation/settlement conference unless other arrangements are made with the Court
 - Court trial
 - Contempt proceedings

Unless adjourned for cause, the failure of any party to appear as stated above may result in the following dispositions:

- | | |
|------------------------|-----------------------------|
| - Of Plaintiff: | Dismissal with Prejudice |
| - Of Defendant: | Default Judgment |
| - Both Parties: | Dismissal without Prejudice |

TRIAL DATES IN EVICTIONS

Eviction trials shall be set as soon as possible by the Court. Trials on damages will occur approximately 30 days after the eviction hearing date. Upon being restored to the premises, landlords seeking damages above and beyond those stated in the original complaint shall file an amended complaint and have the defendant served by first class mail, certified mail, return receipt requested, or personal service. This service shall occur at least five (5) days prior to the trial on damages or the landlord will be limited to the amount of damages originally prayed for in the complaint.

TRIAL

At the trial, the parties shall be prepared to proceed, and shall have their exhibits (documents and other papers) and witnesses ready and available in the courtroom.

RULE 7: FILING OF TRAFFIC CITATIONS

Effective date: March 1, 2013; revised May 15, 2013

- (1) **When Filed:** Unless sub. (2) applies, all Oneida County law enforcement agencies shall file all citations (including refusal paperwork) with the Oneida County Clerk of Court within 72 hours of issuance.
- (2) **Next Day Appearance:** Where citations are issued for an appearance on the next business day following issuance, the citation shall be filed with the Clerk of Court's Office (either electronically or by paper) no later than 11:00 a.m. on the hearing date.
- (3) **Failure to File:** Citations not filed within the time provided herein may not be accepted by the clerk and may be considered dismissed with prejudice by the Court. Any funds posted will be returned to the defendant.

RULE 8: DENOVO HEARING FOR FAMILY MATTERS

Effective date: May 15, 2013

If a party seeks to have the assigned circuit court judge conduct a hearing de novo under s. 757.69(8) of a determination, order, or ruling entered by the family court commissioner in an action affecting the family, a written motion requesting the hearing de novo shall be filed with the court within 30 days following entry of the family court commissioner's signed determination, order, or ruling.